

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1964

Introduced by Assembly Member Evans

(Principal coauthor: Senator Wiggins)

(Coauthor: Assembly Member Blakeslee)

February 14, 2008

An act to amend Sections 24045.4 and 24045.6 of, and to add Section 25607.5 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1964, as amended, Evans. Alcoholic beverages: nonprofit corporations.

The Alcoholic Beverage Control Act authorizes the issuance of a special temporary on-sale and off-sale license to a nonprofit corporation, as specified, in accordance with, among other things, a requirement that this license shall be issued only once in a calendar year.

This bill would provide that a special temporary on-sale and off-sale license shall be issued only 3 times in a calendar year.

The Alcoholic Beverage Control act regulates the possession, distribution, and sale of alcoholic beverages within this state and prohibits the possession of alcoholic beverages for sale unless a person and premises have been issued a specified license authorizing the possession of the alcoholic beverages for sale.

This bill would authorize a nonprofit corporation that has not been issued a license authorizing the possession and sale of alcoholic beverages, to have upon their premises wine ~~bought by, or donated to,~~ *donated to* the nonprofit corporation, to be sold at a later event, if

~~specified requirements are satisfied, including the submission by the nonprofit corporation, of a statement stipulating that the nonprofit corporation will conform to those requirements. This bill would also require that this form be declared true under the penalty of perjury the nonprofit has submitted a specified license application with the Department of Alcoholic Beverage Control.~~

The Alcoholic Beverage Control Act provides that a violation of specified provisions of the act is a misdemeanor.

~~By expanding the crime of perjury, this bill imposes~~*This bill, by including provisions that would be subject to those existing criminal sanctions, would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 24045.4 of the Business and Professions
- 2 Code is amended to read:
- 3 24045.4. (a) The department may issue a special temporary
- 4 off-sale general license to any nonprofit corporation which is
- 5 exempt from payment of income taxes under the provisions of
- 6 Section 23701d of the Revenue and Taxation Code and Section
- 7 501(c)(3) of the Internal Revenue Code of 1954 of the United
- 8 States. An applicant for this license shall accompany the application
- 9 with a fee of one hundred dollars (\$100).
- 10 (b) This license shall only entitle the licensee to sell at auction
- 11 alcoholic beverages donated to it. Notwithstanding any other
- 12 provision of this division, a licensee may donate alcoholic
- 13 beverages to a corporation licensed under this section, provided
- 14 that donations are not made in connection with a sale of an
- 15 alcoholic beverage.
- 16 (c) This license shall be for a period not exceeding 30 days.
- 17 Only three licenses authorized by this section shall be issued to
- 18 any corporation in a calendar year.

1 SEC. 2. Section 24045.6 of the Business and Professions Code
2 is amended to read:

3 24045.6. (a) The department may issue a special temporary
4 on-sale or off-sale wine license to any nonprofit corporation that
5 is exempt from payment of income taxes under Section 23701d
6 or 23701e of the Revenue and Taxation Code and Section 501(c)(3)
7 or 501(c)(6) of the Internal Revenue Code of 1986. An applicant
8 for this license shall accompany the application with a fee of one
9 hundred dollars (\$100).

10 (b) This special license shall only entitle the licensee to sell
11 wine bought by, or donated to, the licensee to a consumer and to
12 any person holding a license authorizing the sale of wine.
13 Notwithstanding any other provision of this division, a licensee
14 may donate or sell wine to a nonprofit corporation that obtains a
15 special temporary on-sale or off-sale license under this section,
16 provided the donation is not made in connection with a sale of an
17 alcoholic beverage.

18 (c) This special license shall be for a period not exceeding 15
19 days. In the event the license under this section is issued for a
20 period exceeding two days, it shall be used solely for retail sales
21 in conjunction with an identifiable fundraising event sponsored or
22 conducted by the licensee and all bottles of wine sold under this
23 license shall bear a label prominently identifying the event. Only
24 three special licenses authorized by this section shall be issued to
25 any corporation in a calendar year.

26 ~~SEC. 3. Section 25607.5 is added to the Business and~~
27 ~~Professions Code, to read:~~

28 ~~25607.5. A nonprofit corporation may have upon their premises~~
29 ~~wine bought by, or donated to, the nonprofit corporation if the~~
30 ~~following conditions are met:~~

31 ~~(a) The nonprofit corporation has filed an application for a~~
32 ~~special temporary license with the department, pursuant to Section~~
33 ~~24045.4 or 24045.6, and the department has not acted upon the~~
34 ~~application.~~

35 ~~(b) Any wines donated to the nonprofit corporation in advance~~
36 ~~of the event for which the special temporary license is pending~~
37 ~~shall be stored, unopened, by the nonprofit for no longer than 60~~
38 ~~days prior to the event. The nonprofit corporation shall only store~~
39 ~~wine.~~

1 ~~(e) If the application for the special temporary license is denied~~
2 ~~by the department, the nonprofit corporation shall return all donated~~
3 ~~wines within 30 days of being notified of the denial by the~~
4 ~~department.~~

5 ~~(d) The authorized representative of the nonprofit corporation~~
6 ~~whose name has been submitted to the department on the~~
7 ~~application for a special temporary license, submits a signed form~~
8 ~~prescribed by the department, declared to be true under penalty of~~
9 ~~perjury, that stipulates that the nonprofit corporation shall conform~~
10 ~~with the requirements of subdivisions (a) to (c), inclusive, of this~~
11 ~~section.~~

12 *SEC. 3. Section 25607.5 is added to the Business and*
13 *Professions Code, to read:*

14 *25607.5. A nonprofit corporation that is required to obtain a*
15 *license to sell wine under Section 23300 may receive and possess*
16 *wine donated to it if, at the time of receipt of the wine, the nonprofit*
17 *corporation has submitted an application with the department for*
18 *a license to sell the donated wine. Nothing in this section is*
19 *intended to affect or otherwise limit the application of Section*
20 *25503.9.*

21 *SEC. 4. No reimbursement is required by this act pursuant to*
22 *Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*